

ADVOCACY

INTRODUCTION

The Taxpayer Advocate Service operates independently within the IRS to help taxpayers resolve problems with the Service, and to address the systemic issues that cause these disputes. In fiscal year (FY) 2001, we strengthened our structure and organization. TAS evolved further in fiscal year 2002, emphasizing our independence, impartiality, and confidentiality – in other words, what it means to be an advocate.

Congress gave TAS two equal, complementary roles: resolving specific tax disputes, and identifying and modifying the programs and procedures that cause them. We have initiated plans to address problems quickly and efficiently through the development of new strategies and initiatives including:

- ◆ Implementing the redesigned Taxpayer Advocacy Panels;
- ◆ Reviewing and acting upon results of customer satisfaction survey data provided by the Gallup organization;
- ◆ Analyzing and improving our case and systemic advocacy processes;
- ◆ Developing a training strategy to enhance the technical skills of TAS employees; and
- ◆ Designing targeted outreach campaigns to reach taxpayers who may be unaware of our services – or hesitant to avail themselves of assistance.

While developing these new initiatives, we continued our efforts to resolve problem cases affecting both individual and business taxpayers. TAS received approximately 227,000 new cases in FY 2002, compared to approximately 270,000 cases in FY 2001. The decline in receipts may have been caused by several factors, including:

- ◆ Improvements to IRS processes (e.g., Earned Income Tax Credit -Revenue Protection Strategy audits);
- ◆ Freezes in case activity resulting from the events of September 11, 2001; and
- ◆ IRS operating divisions either not recognizing hardship cases or resolving more of them on their own (overall referrals from the divisions were down approximately 38,000 from FY 2001).

Finally, and by no means last, we continue to partner with the IRS on a wide range of teams and task forces geared to overall improvements for all taxpayers. Noteworthy projects include the Service Level Agreements, National Research Program (NRP), offers-in-compromise, and the Earned Income Tax Credit.

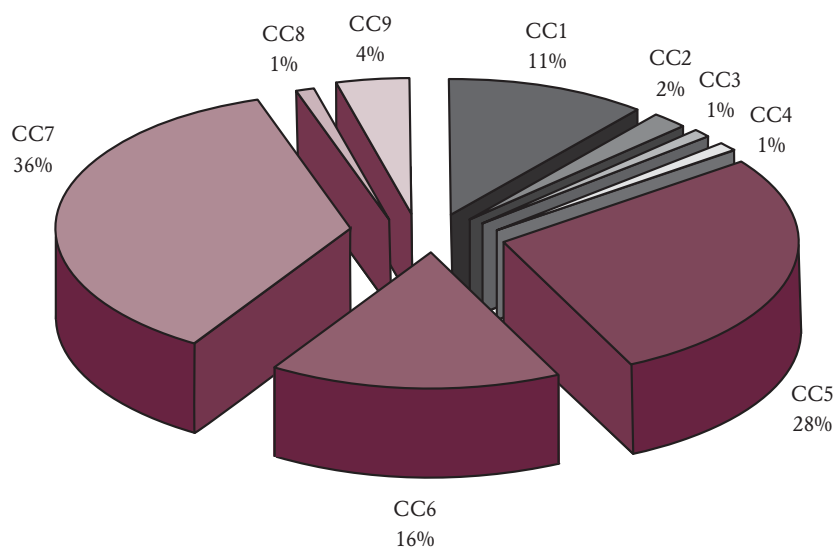
CASE ADVOCACY

Receipts

Most taxpayers contact the Taxpayer Advocate Service because of systemic or procedural hardships with the Internal Revenue Service (including delays) as defined by Internal Revenue Code section 7811(a)(2)(B). Only 15.4 percent of receipts met our criteria for hardship cases as defined by Internal Revenue Code sections 7811(a)(2)(A), (C), and (D) (which are more commonly referred to as economic or financial hardship criteria).

The Taxpayer Advocate Service (TAS) in fiscal year 2002 received 227,373 new cases from taxpayers, practitioners, the IRS Operating Divisions and congressional offices. Table 4.1 illustrates receipts by TAS Criteria Code (CC):

TABLE 4.1
FY 2002 RECEIPTS BY TAS CRITERIA CODE



FINANCIAL OR ECONOMIC HARDSHIP

CC 1: TP suffering or about to suffer a significant hardship (IRC/7811(a)(1)(A))

CC 2: TP facing threat of adverse action (IRC/7811(a)(2)(A))

CC 3: TP will incur significant costs if relief is not granted (IRC/7811(a)(2)(C))

CC 4: TP will suffer irreparable injury, or long term adverse impact (IRC/7811(a)(2)(D))

SYSTEMIC OR PROCEDURAL HARDSHIP

CC 5: TP experienced a delay of more than 30 days to resolve tax account problem (IRC/7811(a)(2)(B))

CC 6: TP has not received a response by the date promised

CC 7: A system(s) or procedure(s) has either failed to operate as intended or failed to resolve the TP's problem

CC 8: Congressional duplicate of any criteria or non-criteria case already in the Taxpayer Advocate Service

CC9: Any case not meeting TAS criteria, but kept in the TAS office to be worked



As in previous years, refund issues comprised a significant source of Taxpayer Advocate Service casework. This includes cases resulting from the Economic Growth and Tax Relief Reconciliation Act of 2001. TAS began tracking these cases in August of 2001, and received 2,539 of them in FY 2002. These taxpayers came to us because they could not understand the notices they received, questioned the amounts of their refunds, could not reach IRS representatives on the toll-free customer service line, or had questions about the new tax law provision. We also received complaints from taxpayers who were eligible for the advanced refund but did not receive it because the IRS was barred from issuing this refund after December 31, 2001. This date, established by the 2001 legislation, left no opportunity to refund monies to taxpayers even in situations where IRS processing difficulties contributed to delays.

Throughout FY 2002, we experienced a significant increase in cases involving levies. We received 8,571 new levy cases during this period compared to 4,199 just one year before, an increase of 105 percent (4,372 cases). While we continue to evaluate these cases, we believe some of the increase is a result of continued implementation of the Federal Payment Levy Program.¹

We also took in a considerably larger volume of cases involving criminal investigation freezes, which rose from 3,755 in FY 2001 to 5,500 in FY 2002. Many of these taxpayers asked TAS to help with refunds that were frozen while the IRS Criminal Investigation Division completed its probes into possible earned income tax credit fraud, preparer fraud, and similar issues.

The Taxpayer Advocate Service uses the Taxpayer Advocate Management Information System (TAMIS) to track cases. Table 4.2 details the ten most common issues received in TAS this fiscal year. These ten issues accounted for approximately 63 percent of TAS receipts in FY 2002.

¹ IRC § 6331(h).

TABLE 4.2
TEN MOST COMMON ISSUES IN TAS IN FY 2002

DESCRIPTION OF ISSUE	COUNT
Processing claims/amended returns	32,300
Revenue Protection-EITC (refunds frozen pending IRS determination to examine the return.)	26,135
Refund inquiry	20,428
Initial Processing of IMF returns	14,024
Other Penalties	11,260
Problems with payments/credits	8,613
Levies	8,571
Lost/stolen refunds includes entire check tracing process	7,729
Underreporter process-includes both open & closed cases	7,250
Total	143,425

Closures

The Taxpayer Advocate Service closed over 244,000 taxpayer cases this past fiscal year, 234,327 of which originated as Applications for a Taxpayer Assistance Order or ATAOs (IRS Form 911 or an acceptable substitute) either in FY 2002 or in prior years. The remaining closures included duplicate congressional inquiries or cases that did not meet TAS criteria. We provided relief in 69 percent of cases that we received as ATAOs. Table 4.3 details the Application for Taxpayer Assistance Order cases that closed in FY 2002.



TABLE 4.3
APPLICATION FOR TAXPAYER ASSISTANCE ORDER CASE DISPOSITION

APPLICATION FOR TAXPAYER ASSISTANCE ORDER (ATAO) DISPOSITION	NUMBER OF CASES	PERCENT OF TOTAL
Relief Granted - Including Taxpayer Assistance Orders	161,611	69.0 %
No Relief Granted - Advocate does not deem relief appropriate.	40,815	17.4 %
No Relief Granted - No response from taxpayer.	16,915	7.2 %
No Relief Granted - Hardship not validated or documentation/verification that the Advocate deems necessary not provided by taxpayer.	4,355	1.9 %
No Relief Granted - Advocate determined relief appropriate, but current law prevents granting relief.	1,716	0.7 %
Advocate Relief Not Required - Relief provided by Operations prior to receipt of ATAO or relief determination.	7,166	3.1 %
Advocate Relief Not Required - Taxpayer rescinds ATAO, no longer requires Advocate relief.	1,452	0.6 %
Advocate Relief Not Required - Taxpayer hardship did not involve in any way the administration of internal revenue laws.	297	0.1 %
Total	234,327	100.0 %

Taxpayer Assistance Orders

In general, Internal Revenue Code section 7811 authorizes Local Taxpayer Advocates to issue a Taxpayer Assistance Order (TAO) when a taxpayer is suffering or about to suffer a significant hardship as a result of the IRS' administration of tax laws. We issue Direct TAOs to direct an IRS unit to take an action that is specifically authorized by IRC § 7811(b). We issue Review TAOs to require an IRS unit to expedite consideration of a taxpayer's case, review and reconsider its own determination, or review the determination at a higher level in that unit.

During FY 2002, TAS issued 12 TAOs on the following types of cases:

Earned Income Tax Credit (4), Amended Returns (1), Liens (1), Levies (3), Refunds (2), and Interest Abatement (1).

Four of these TAOs were Direct TAOs and eight were Review TAOs. IRS personnel took the requested action(s) in nine of these cases. The IRS appealed one TAO and the National Taxpayer Advocate (NTA) rescinded the order. Another TAO was rescinded at

the Area Advocate level because it was issued prematurely. The IRS verbally appealed another TAO, but provided relief to the taxpayer after securing additional information.

Internal Revenue Code section 7811(b) provides that the terms of the Taxpayer Assistance Order may require the Secretary to take an action within a specified timeframe. The IRS took the requested action(s) or appealed the TAO within the requested timeframes on all but two of the 12 TAOs issued. While the requested timeframes for action or appeal were reasonable for the actions requested on these two TAOs, the IRS responded within six calendar days after the specified timeframe.

We issued three TAOs during FY 2002 where the requested actions were not appropriate subjects of a TAO under IRC § 7811(b). The IRS Operating Division took the requested actions immediately on two of these cases. The third was appealed, but the IRS subsequently complied.

Congressional Casework

The Taxpayer Advocate Service responds to all tax account related inquiries sent to the IRS by members of Congress, even when these inquiries do not constitute significant hardships under IRC § 7811(a)(2). The Taxpayer Advocate Service responded to over 20,000 congressional inquiries during FY 2002. Of these inquiries, 18,366 met the significant hardship criteria defined in IRC § 7811(a)(2). Table 4.4 highlights the case disposition of these hardship inquiries. The remaining congressional inquiries either did not meet hardship criteria or were identified as a case with multiple inquiries on the same taxpayer and issue.

TABLE 4.4
CONGRESSIONAL CASEWORK

CONGRESSIONAL CASE DISPOSITIONS	NUMBER OF CASES	PERCENT OF TOTAL
Relief Granted	11,126	31.2 %
No Relief Granted - Advocate does not deem relief appropriate.	5,728	60.6 %
No Relief Granted - Advocate determined relief appropriate, but current law prevents granting relief.	321	6.5 %
Advocate Relief Not Required - Relief provided by Operations prior to receipt of ATAO or relief determination.	1,191	1.7 %
Total	18,366	100.0 %



The issues raised most frequently by taxpayers seeking congressional intervention in FY 2002 included: refund issues, abatement of penalties, request for tax law interpretations, offers in compromise, processing of claims and amended returns, processing of original individual returns, problems with payments and credits, collection notices, levies, and the underreporter (information reporting) process.

Senate Finance Committee

While the Senate Finance Committee continues to receive Internal Revenue Service related inquiries, the quantity has significantly declined. In fiscal year 2002, the Committee referred 17 new cases to the Taxpayer Advocate Service, down from 68 in fiscal year 2001.

The most frequent issues raised by taxpayers seeking assistance from the Senate Finance Committee in FY 2002 included: offers-in-compromise, abatement of penalties, and taxpayers unable to pay their liabilities. In fiscal year 2002, we closed 28 Senate Finance Committee cases. Table 4.5 depicts the disposition of these cases:

TABLE 4.5
SENATE FINANCE COMMITTEE CASE CLOSURES

CASE DISPOSITION	NUMBER OF CASES	PERCENT
Relief provided (Partial or Full)	15	53.6 %
Relief not appropriate	12	42.9 %
Law prevented relief	1	3.5 %
Total	28	100.0 %

Small Business Regulatory Enforcement Fairness Act (SBREFA) Cases

The Small Business Regulatory Enforcement Fairness Act of 1996 established a process for small businesses to register complaints with the Small Business Administration and Agriculture Regulatory Ombudsman (more commonly referred to as the SBA Ombudsman), or with a Regional Small Business Regulatory Fairness Board, about enforcement-related activities taken by federal agencies.

When a small business taxpayer writes to the SBA Ombudsman, the ombudsman's office reviews the correspondence and writes a letter to the federal agency involved, asking some very specific questions about the actions taken with regard to the small business. Correspondence from the Ombudsman to the IRS is sent to the Small Business/Self-Employed Division's Taxpayer Education and Communication (SB/SE TEC) Office. That office then forwards this correspondence to TAS to investigate the issues surrounding the taxpayer's complaint and to respond to the SBA Ombudsman's questions.

This past fiscal year, TAS received 10 new SBREFA cases. Prior to receiving these cases, TAS had not received a SBREFA inquiry since November 1999. Some of the issues presented in these cases include:

- ◆ Federal Tax Deposit Penalties
- ◆ Notices of Federal Tax Lien
- ◆ Electronic Federal Tax Payment System (EFTPS)
- ◆ Rental Income and Expenses



SYSTEMIC ADVOCACY

Receipts

The Taxpayer Advocate Service's Office of Systemic Advocacy has dramatically improved the means of receiving advocacy submissions and transforming them into viable projects. Systemic Advocacy has consolidated the workload, streamlined the flow of information, and eliminated multiple reviews. The inventory of advocacy issues and projects has been centralized and issues prioritized using new methodology and criteria. The Taxpayer Advocate Service considers each potential project under the following standards:

- ◆ Impact on taxpayer rights
- ◆ Reduction of taxpayer burden
- ◆ Ease of administration
- ◆ Fairness

Processing

The Systemic Advocacy Management System (SAMS) is a web-based system that is scheduled to become operational in 2003. It will assess, rank and store advocacy submissions, as well as deliver them directly from their originators to headquarters. SAMS will extend beyond the Taxpayer Advocate Service, allowing all IRS employees to submit, research, and track advocacy issues. Interested parties outside the IRS, including businesses, individuals, academic and research institutions, and professional organizations may also submit issues by simply completing a form on the IRS website (<http://www.irs.gov>) and emailing it to Systemic.Advocacy@irs.gov.

The new system provides a natural linkage to the Taxpayer Advocacy Panel (formerly the Citizen Advocacy Panel). SAMS will facilitate support for and coordination with the panel and will provide TAS with additional resources and information.

Earned Income Tax Credit

The Taxpayer Advocate Service worked with the IRS to improve processes and procedures related to the Earned Income Tax Credit (EITC). The National Taxpayer Advocate served on the Executive Steering Committee for the Joint Treasury/IRS EITC Task Force. A TAS representative served as a member of the Task Force. The Task Force's two primary goals were to reduce erroneous EITC payments and maintain participation in the EITC program. TAS is now working with teams that are designing an implementation strategy for Task Force proposals.

In addition to the EITC Steering Committee and Task Force, TAS is monitoring math error notice processing and initiatives as well as working with the Wage and Investment Operating Division on day-to-day issues related to EITC. Despite the efforts of TAS and the IRS, taxpayers who claim EITC experience many problems. The National Taxpayer Advocate details seven discrete problems with EITC in the Most Serious Problems section of this report.

Automated Collection System

The Taxpayer Advocate Service is a member of the Wage & Investment Operating Division (W&I) Automated Collection System (ACS) Internal Revenue Manual (IRM) Rewrite Team. The purpose of the team is to rewrite IRM 5.19, Liability Collection, and incorporate parts of W & I IRM 21, Accounts Management, to provide procedural guidance. TAS' participation ensures that the team addresses taxpayer rights (including the Appeals process), taxpayer burden issues, and the priority of and procedures for processing TAS cases. Problems that taxpayers experience with ACS are presented in more detail in the Most Serious Problems section of the report.

Offers-in-Compromise

The Office of the Taxpayer Advocate has coordinated with the Small Business/Self-Employed (SB/SE) Operating Division to redesign the processing of offers-in-compromise (OIC). During FY 2002, the National Taxpayer Advocate and TAS representatives visited the two Centralized OIC sites located in Memphis and Brookhaven. TAS worked with SB/SE to refine procedures and ensure the procedures supported IRS Policy Statement P-5-100, which describes the program's purpose, operational goals, and requirements. The Taxpayer Advocate Service is monitoring the changes to the process, ensuring that taxpayers' rights are protected, and that their ability to have a dialogue with the decision maker is preserved. We have also been involved in refining the qualifications for Effective Tax Administration (ETA) Offers. Problems with processing offers-in-compromise and IRS actions to address the problems are discussed in detail in the Most Serious Problems sections of this report.

Taxpayer Advocacy Panels

During fiscal year 2002, the Taxpayer Advocate Service worked with the Department of Treasury and the IRS to redesign the existing Citizen Advocacy Panels. The new Taxpayer Advocacy Panel (TAP) will provide nationwide coverage and "listening opportunities" for taxpayers in all 50 states.



The TAP is aligned with the Office of the National Taxpayer Advocate and will work with TAS and the IRS Functions and Operating Divisions to identify strategic initiatives that need or will benefit from citizen comment. The IRS Functions and Divisions will turn to the TAP for comments and suggestions about IRS strategic initiatives or key program changes that impact taxpayers. The TAP will also identify and capture grass-roots level issues and elevate them to the IRS.

Taxpayer Advocacy Panel members are volunteers, each of whom serves in one of seven geographic areas that are aligned with TAS areas. In addition, TAP members serve on Issue Committees that have responsibility to act on or consider issues of strategic importance to the tax administration system. Each issue committee is empowered to work directly with the IRS program owner to provide observations or recommendations on the issue before them, monitor the status and progress on the issue, and identify concerns in design and implementation of the issue.

The National Taxpayer Advocate believes that the structure and responsibilities of the Taxpayer Advocacy Panel increase opportunities for U.S. taxpayers to communicate with IRS.

Disaster Relief

The Taxpayer Advocate Service supported the IRS in addressing tax issues and questions raised by the September 11, 2001 terrorist attacks. The Taxpayer Advocate Service also supported the Killed in Terrorist Action program, which provided a means to provide immediate tax assistance to families of those who were killed in the attacks.

As of the end of fiscal year 2002, 214 taxpayers who were directly affected by the September 11 attacks had contacted the Taxpayer Advocate Service for assistance. Twenty-eight percent of the taxpayers were experiencing a financial or economic hardship. This compares to approximately 15 percent for all TAS cases. These taxpayer issues included: expedited refund request, claims/amended returns, and penalty abatement requests.

TAS remains committed to IRS disaster relief efforts. We serve on the Disaster Relief Council and worked with the Council to develop a new IRS Disaster and Emergency Relief manual.

Collection Contract Support Project

During the past year, the Taxpayer Advocate Service has been active in evaluating the Small Business/Self-Employed operating division (SB/SE) modernization proposal to collect delinquent debts through private collection agencies. We will continue to look at:

- ◆ Legislative initiatives recommending that the IRS use private collection agencies to collect federal tax liabilities.
- ◆ Private collection agencies' ability to safeguard taxpayer rights through training and oversight. Taxpayers and their representatives have experienced difficulty, depending on the terms of the contractor's compensation, when trying to resolve cases through methods other than collection. Under certain contractual arrangements, if a taxpayer raises a question regarding the underlying liability, the agency may resist or refuse outright to send the case back to the IRS for review and consideration.
- ◆ The IRS' analysis of its ability to work and monitor the referrals anticipated from such a project. The success of using contractors to collect federal tax debt is dependent upon IRS' ability to ensure taxpayer rights protections are in place and monitored, provide guidance, training, and oversight of contractors, and develop a system to refer appropriate cases. We have no clear view of the magnitude of referrals that could be generated by such an initiative and the strain this would place on already limited resources.
- ◆ Safeguards for unrepresented low income taxpayers to prevent them entering into unreasonable collection arrangements.

While SB/SE has the primary responsibility for this effort, the Office of the Taxpayer Advocate has partnered with SB/SE to develop potential legislative initiatives. TAS has focused on preserving taxpayer rights and developing processes that afford taxpayers the same procedural and statutory protections in dealing with private contractors that they currently have in their dealings with the IRS. TAS will continue to monitor the implementation phase, as well as work individual cases referred from collection agencies, if the "contracting out" provisions are enacted.



National Research Project

In early fiscal year 2003, the IRS launched the National Research Project (NRP), a research program designed to develop more accurate audit selection criteria. This program replaces the Tax Compliance Measurement Program (TCMP), which consisted of line-by-line audits of individual and business taxpayers.

One component of this program involves Earned Income Tax Credit (EITC) examinations. Taxpayers will be randomly selected to undergo an examination for this issue. The results of this study will drive, to a certain extent, the return selection strategy for EITC examinations for years to come.

The National Taxpayer Advocate believes that taxpayers obtain much more favorable results when they have representation in these audits. Thus, TAS worked with the NRP team to ensure that each NRP contact letter for an EITC examination will include a “stuffer,” on which is listed a short message about the availability of free or nominal fee representation for low income taxpayers in these audits. These stuffers include the name, city, state, and telephone number of every Low Income Taxpayer Clinic receiving funding under IRC § 7526; and a reference to other types of organizations that may provide similar *pro bono* assistance.

Federal Payment Levy Program

During FY 2002, we made strides to open the lines of communication between IRS Operating Divisions as a result of systemic or procedural problems involving Federal Payment Levy Program (FPLP) levies. We have made efforts this year to work more closely with the Operating Division to provide TAS perspective on guidance and clarification of FPLP policies and procedures.

Business Advocacy

A strong Business Advocacy organization is crucial to the overall success of the Taxpayer Advocate Service. Its mission is to collaborate with IRS and external stakeholders to identify and resolve problems. These may pertain to processes, systems, statutes, policies, or communication. Nearly half of all TAS cases involve business taxpayers, ranging from self-employed taxpayers to large international corporations.

Business Advocacy accomplishments include:

- ◆ influencing changes to proposed regulations;
- ◆ working with the Small Business Administration to identify small business concerns with the IRS;
- ◆ partnering in taskforces that improve processes; and
- ◆ recommending changes to business taxpayer correspondence.

Other Collaborative Efforts

The Taxpayer Advocate Service partners with IRS functions to ensure that barriers to taxpayers' understanding of and compliance with tax law are eliminated. TAS is also vigilant in protecting taxpayer rights that might be impacted by procedural changes. Some of the Office of Systemic Advocacy's current projects include:

- ◆ Membership on SB/SE's Burden Reduction Council, which evaluates and approves methods of simplifying forms and publications.
- ◆ Wage and Investment (W&I) – focusing on administration of all aspects of Earned Income Tax Credit;
- ◆ Large & Mid-Sized Business (LMSB) – addressing the area of incorrect penalty assessment;
- ◆ Tax Exempt /Governmental Entities (TE/GE) – assessing the Impact of regulations on retirement plan payers;
- ◆ Appeals – analyzing the results of collection due process; and
- ◆ Chief Counsel – evaluating taxability of certain categories of trucks/tractors.

